

AND NOW, THIS 27th DAY OF
APR 2011, IT IS HEREBY
ORDERED THAT THE WITHIN
MOTION IS DENIED.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GARY L. LANCASTER,
UNITED STATES DISTRICT JUDGE

Andre C. Lowry, Petitioner

: Civil Action No. 11-65

v.

M. Weneronicz, Respondent
Attorney General Of Pennsylvania
District Attorney Of Allegheny
County, Additional Respondents

: Chief Judge
: Gary L. Lancaster
:
:

**RECONSIDERATION OF CHIEF JUDGE LANCASTER'S ORDER AFFIRMING
THE DENIAL OF THE STAY AND ABEYANCE MOTION, DATED: 4/15/11**

AND NOW comes, Andre C. Lowry respectfully requesting Chief
Judge Lancaster to reconsider his order affirming the denial
of Motion for a Stay.

Judge Lancaster in his order states that Magistrate Judge Lenihan
was not clearly erroneous nor contrary to law.

Petitioner respectfully disagrees.

The Supreme held in Rhines v. Weber, 125 S.Ct. 1528, 544 U.S.
269 (U.S. 2005), that "Under the "doctrine of comity", one court
should defer action on causes properly within its jurisdiction
until the courts of another sovereignty with concurrent powers,
and already cognizant of the litigation, have had an opportunity
to pass upon the matter."

Petitioner asserts that the pending appeal before the Superior
Court of Pa. western district is and will be entertained because
of the statutory presumptions implied in the post conviction
(PCRA) 9543(a)(2)(viii) statute. That statute clearly states
that a tribunal acting without jurisdiction can and will be
heard. Commonwealth v. Williams, 442 Pa. Super. 590, 660 A.2d
614, 618 (1995).

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